

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DYLAN THOMAS,

Plaintiff,

vs.

GABRIAL MATTINGLY, Confidential
Informat; SARPY COUNTY SHERIFFS
DEPARTMENT, State Actor, Individual
Capacity; LINCOLN POLICE
DEPARTMENT, and LINCOLN
REGIONAL CENTER,

Defendants.

8:21CV272

MEMORANDUM AND ORDER

Plaintiff filed a Notice of Appeal (filing 19) on January 3, 2022, seeking to appeal the court's Memorandum and Order and Judgment (filings 16 & 17) entered December 3, 2021, dismissing his Amended Complaint without prejudice pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A. On January 4, 2022, the Clerk of the Court entered a memorandum requesting a ruling as to Plaintiff's authorization to proceed in forma pauperis on appeal. (Filing 20.) The court has not yet made a ruling, and the appeal has not yet been processed to the Eighth Circuit Court of Appeals.

On January 13, 2022, Plaintiff filed a motion asking the court to "[c]ancel attempted Appeal case no: 8:21cv272. This is Dylan Thomas. It's too late and also futile." (Filing 25.) Plaintiff also asked that his "remaining bills/balances owed on [21cv]272 and [21cv]368" be sent to his grandfather and stated, "I think we are done here. I tried. Let's pay this off[,]" and "I'll be back." (*Id.*)

The court liberally construes Plaintiff's motion as a motion for voluntary dismissal of his appeal. Pursuant to Federal Rule of Appellate Procedure 42(a),

“[b]efore an appeal has been docketed by the circuit clerk, the district court may dismiss the appeal on the filing of a stipulation signed by all parties or on the appellant’s motion with notice to all parties.” Here, Plaintiff, the appellant, asks the court to dismiss his appeal, there are no other parties to this action, and no appeal has been docketed by the circuit clerk. Accordingly, the court will grant Plaintiff’s motion to dismiss his appeal.

To the extent Plaintiff asks the court to collect the filing fees he owes from another party, Plaintiff’s request is denied. As Plaintiff was advised when he was granted leave to proceed in forma pauperis, he will remain responsible for the entire filing fee as long as he is a prisoner. (*See* Filing 8); *see also In re Tyler*, 110 F.3d 528, 529–30 (8th Cir. 1997); *Jackson v. N.P. Dodge Realty Co.*, 173 F. Supp. 2d 951 (D. Neb. 2001).

Finally, Plaintiff filed a second motion on January 13, 2022, seeking to “submit [his] report titled: ‘NSA Gangstalking, a Euphemism for Corporate Christian Terrorism New Dimensions in American Evil and Googles Social Credit System Abuse of Targeted Individuals in the Prism Program’ in a way to make it Public Record.” (Filing 27.) Plaintiff also directs a request to the clerks “[o]ff the record” for help in “comport[ing] with FRCP 8 and 10.” (*Id.* at CM/ECF p. 2.) Pursuant to 28 U.S.C. § 955, the Clerk of the Court cannot provide legal advice to Plaintiff. Regardless, Plaintiff’s “report” is already part of the records of this case as he included it as “Exhibit A” attached to his Amended Complaint. (Filing 13 at CM/ECF pp. 12–260.) Plaintiff’s Amended Complaint has not been sealed nor has access to the pleading been restricted and is available for viewing by the public. *See, e.g.*, NEGenR 1.2(a)(1) (public remote access to the court’s electronic case filing (“CM/ECF”) system is available to subscribers of the Public Access to Court Electronic Records (“PACER”) system or to individuals who access CM/ECF at the clerk’s office during regular business hours). Plaintiff’s motion is, therefore, denied.

IT IS THEREFORE ORDERED that:

1. Plaintiff's motion for voluntary dismissal of his appeal (filing 25) is granted. In accordance with Rule 42(a) of the Rules of Appellate Procedure, Plaintiff's appeal is dismissed, and no appeal will be processed to the Eighth Circuit Court of Appeals.

2. Plaintiff's request for alternative collection of his filing fees (filing 25) is denied.

3. Plaintiff's motion to submit his "report" (filing 27) is denied.

Dated this 24th day of January, 2022.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge